REMARKS/ARGUMENTS

Status Of The Claims

This is an Amendment and Reply to the Office Action mailed April 16, 2008, in which the following rejections were set forth: Claims 17 and 18 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention; Claims 1-4, 7-10, 13-18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ishimaru* in view of Korean Patent Application No. 2003-0075939 to Huh ("*Huh*"); and, Claims 5, 6, 11, and 12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ishimaru* in view of *Huh* and further in view of *Thompson*.

By this response, Claims 17 and 18 have been amended and no claims have been added or canceled. As such, Claims 1-18 are pending in this application.

§ 112 Claim Rejections

Applicant has amended Claims 17 and 18 to more particularly point out and distinctly claim the subject matter that Applicant regards as the invention. As such, Claims 17 and 18 are respectfully submitted to be in condition for allowance and the Applicant requests that the rejection of Claims 17 and 18 be withdrawn.

§ 103(a) Claim Rejections

Ishimaru in view of *Huh*

Claims 1-4, 7-10 and 13-18 stand rejected as being unpatentable over *Ishimaru* in view of *Huh*, wherein it is alleged that the combination of references discloses each and every element of Applicant's claimed invention.

For prior art references to be combined to render obvious an invention under 35 U.S.C. § 103(a), there must be something in the prior art as a whole that suggests the desirability, and thus, the obviousness, of making the combination. *Uniroyal v. Rudkin-Wiley*, 5 U.S.P.Q.2d 1434, 1438 (Fed. Cir. 1988). The teachings of the references can be combined only if there is some suggestion or incentive in the prior art to do so. See *In re Fine*, 5 U.S.P.Q.2d at 1599. Furthermore, hindsight is strictly forbidden and it is impermissible to use the claims as a framework from which to pick and choose among individual references to recreate the claimed invention. *Id.* At 1600; *W.L. Gore*, 220 U.S.P.Q. at 312. Thus, the mere fact that a prior art structure could be modified to produce the claimed invention would not have made the

modification obvious unless the prior art suggested the desirability of the modification. *In re Fitch*, 23 U.S.P.Q.23 1780, 1783 (Fed. Cir. 1992); *In re Gordon*, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984).

Huh discloses a dryer 20 for tableware or clothes. A fuel cell system 10 has a fuel cell 11 with a solid polymer membrane. As understood by one of ordinary skill in the art, this disclosure is indicative of a low-temperature fuel cell that works at temperatures between 60° C and 120° C. Additionally, this is further understood because higher temperatures—as are used in high-temperature fuel cells—would be dangerous when drying tableware or clothes. Applicant therefore contends that one of ordinary skill in the art would not find that *Huh* teaches or suggests the use of high-temperature fuel cells as asserted by Examiner. As such, Applicant respectfully submits that the Examiner has failed to point to a teaching within the cited prior art that supports the combination or modification of *Ishimaru* and *Huh*, which results in Applicant's claimed invention; and as such, a *prima facie* case of obviousness has not been made.

Furthermore, even if it assumed for the sake of argument that *Ishimaru* and *Huh* can be properly combined, *Huh* fails to disclose how the temperature is controlled. Apparently, *Huh's* temperature system 24 in the drying space 21 works on valve 40, which in turn controls the amount of exhaust gas 30 led to the drying space 21. See *Huh*, Fig. 1. As such, it can be concluded that *Huh* does not disclose or suggest a control system for controlling the operation of the fuel cell as claimed in independent Claim 1.

Moreover, *Huh* does not disclose or suggest using the electrical energy produced by the fuel cell 11. That is, *Huh* fails to disclose any electrical network outside of the dryer. Therefore, it stands to reason that all electrical energy produced must be consumed inside the dryer. As such, *Huh* fails to disclose or suggest the fuel cell being controlled in a manner so as to exactly meet the heating demands in the drying cubicle, as required by independent Claim 1

Ishimaru in view of *Huh* therefore fails to disclose or suggest each and every element of Applicant's invention as claimed in Claims 1 and 7. As such, Claims 1 and 7—and any respective claim ultimately dependent thereon—are not rendered obvious by *Ishimaru* in view of *Huh*.

In regard to the claim rejections based on the combination of *Ishimaru*, *Huh*, and *Thompson*—notwithstanding the fact that there is no suggestion to combine *Ishimaru* and *Huh*—*Thompson* fails to compensate for the shortcomings of a permissible combination of *Ishimaru*

and *Huh* to disclose each and every element of Applicant's independent Claims 1 and 7. As such, Claims 1 and 7—and any respective claim ultimately dependent thereon—are not rendered obvious by *Ishimaru* in view of *Huh* and further in view of *Thompson*.

For at least the above reasoning, Applicant respectfully requests that the rejections of Claims 1 and 7 be removed and further submits that Claims 1 and 7—as well as Claims 2-6 and 8-18 by virtue of their respective ultimate dependence there from—be allowed to issue.

CONCLUSION

In view of the above amendments and remarks, Applicant respectfully requests that all rejections be removed and all pending claims be passed to issue. If any fees are required with this communication, Applicant authorizes the Commissioner to deduct such fees from Deposit Account No. 50-0545.

Respectfully Submitted,

Dated: July 16, 2008

Joseph M. Kinsella Jr.
Reg. No. 45,743
One of the Attorneys for the Applicants

CERTIFICATE OF FIRST CLASS MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop – Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on July 16, 2008

Yolanda Solis